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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,588	07/11/2003	Robert F. Mouradian	TEC03-01	3698
61089 7590 10/22/2008 BARRY W. CHAPIN, ESQ. CHAPIN INTELLECTUAL PROPERTY LAW, LLC WESTBOROUGH OFFICE PARK 1700 WEST PARK DRIVE, SUITE 280 WESTBOROUGH, MA 01581				
EXAMINER				
SODERQUIST, ARLEN				
ART UNIT		PAPER NUMBER		
1797				
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10/22/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/617,588

**Applicant(s)**

MOURADIAN ET AL.

**Examiner**

Arlen Soderquist

**Art Unit**

1797

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) 25-39 and 51-56 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-10, 13-24, 40, 41, 43-50 and 57-59 is/are rejected.
- 7) ☒ Claim(s) 6, 11, 12 and 42 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 6-30-2008
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

1. Based on the arguments and instant specification examiner makes the following findings regarding the scope of a multi-dimensional/directional user indicator or stimulus. These terms can constitute any of the following or may be a combination thereof: a speaker giving an audible sound or tone, a light or lamp that is not part of a flat display (non-planar indicator), and a plurality of lights on different portions of a housing.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 13-14, 40-41, 43 and 57-59 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hickox (US 6,362,741). In the patent Hickox teaches a portable leak detector with a housing having an inlet and an outlet each in fluid communication between an interior and an exterior of the housing. A gas sensor, having a property that changes in response to exposure of the gas sensor to one or more gases, is positioned in fluid communication with the interior of the housing via the inlet thereof. The leak detector includes a probe lamp, a plurality of first indicator lamps supported by the housing and a speaker supported by the housing (the combination of lamps and speaker each constituting a multi-dimensional/directional indicator/stimulus. A controller supported by the housing is connected to detect the property of the gas sensor. The controller causes the probe lamp to flash at a first frequency, causes a first group of the plurality of first indicator lamps to illuminate, and/or causes the loudspeaker to chirp at a second frequency all as a function of a detected property of the gas sensor. The leak detector can also include a plurality of second indicator lamps supported by the housing. The controller can cause a select group of the plurality of second indicator lamps to illuminate as a function of the property of the gas sensor detected by the controller. In order to determine which group of first/second indicator lamps to illuminate, the controller detects the property of the gas sensor a plurality of times. Next, the controller determines from the plurality of detected properties a minimum property value, a maximum property value and a newest property value. Thereafter, the controller determines a property ratio. The property ratio is a ratio of the difference between the newest property value and the minimum property value over the difference between the maximum property value and the minimum property value. Thereafter,

the controller illuminates the group of the first plurality of indicator lamps as a function of a product of the property ratio and a quantity of first indicator lamps. A sensor casing (16) has a proximal end (18) connected to distal end (14) of flexible tube (10) and a distal end (20) opposite flexible tube. The sensor casing includes a fluid conduit (22) (shown in phantom in figure 2) which extends between proximal end 18 and distal end 20. A probe lamp (24), such as an LED, is supported by sensor the casing for viewing from an exterior of the sensor casing. The detector also includes a microprocessor (76) connected to receive a signal output of the gas sensor (26) and is connected to control an LED driver circuit (82) which is connected to control illumination of a power LED (64), a mute LED (66) and a plurality of first indicator LEDs (68-1 through 68-5) and a plurality of second indicator LEDs (70-1 through 70-5). See figures 1 and 4-5 to see that the probe lamp and plurality of first indicator LEDs and plurality of second indicator LEDs constitute a multi-dimensional/directional indicator/stimulus. Figure 2 shows the presence of a particle filter (28). Figures 3a-3b show at least two types of sensors and the connections for the speaker (102) and various lamps. Column 7 teaches how the number of indicator lights or the flashing rate of the probe lamp and the chirp rate of the speaker are determined and controlled. Column 1 lines 10-18 teach a variety of types of systems that can be checked for leaks.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claims 4-5, 7-10, 15-24 and 44-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hickox as applied to claims 1-3, 13-14, 40-41, 43 and 57-59 above, and

further in view of the admitted state of the prior art. Hickox does not teach the controller having a list of locations that the leak detector is being used.

Page 4, line 27 to page , line teaches several conventional (prior art) fugitive emissions monitoring programs within a large organization such as a petroleum corporation typically includes a stationary computer system such as a desktop personal computer that operates a specialized and proprietary fugitive emissions data management software application that includes a computerized database organized in a proprietary data format or conventional gas analyzers with an embedded computer program that can be configured to associate a scanned bar code label (i.e., the leak point identification) with a concentration value corresponding to a detected concentration of a compound in a vapor sample collected and measured at that leak point by a detector operating within the gas analyzer. Examples of such include a proprietary software application such as the Fugitive Emissions Monitoring Software (FEMS) now provided by Essential Information Systems, Inc., the Toxic Vapor Analyzer (e.g., model number TVA-1000) formerly manufactured by The Foxboro Company, Inc. and the HVM-680, manufactured by Thermo Electron Corporation, Inc. These software applications and conventional analyzers include a list/database of test locations along with means for entering and associating the gas concentration with the location that was tested for leaks. This allows a worker to verify that the test location is correct and then record and maintain a record of the tests and any repairs that were made.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the test location record and identifiers of the admitted prior art in the Hickox device because of the ability to identify the locations and record the results by location as taught by the admitted prior art.

6. Claims 1-5, 7-10, 13-24, 40-41, 43-50 and 57-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted state of the prior art in view of Hickox as explained above. The admitted state of the prior art does not teach the specific structure of the leak detector being used. However it would have been obvious to incorporate the Hickox detector into the known prior art structures because of its portability and ability to detect one or more compounds that could leak from a system that needs to be tested.

7. Claims 6, 11-12 and 42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The art of record fails to teach or fairly suggest the structure combination of these claims. However, if the filter structure of claims 11-12 is conventional to any of the admitted prior art devices, applicant is required to provide documentation showing that the liquid filter is known in or part of one of the conventional admitted devices.

8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The additionally cited art relates to gas analyzers with alarm means.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arlen Soderquist whose telephone number is (571)272-1265. The examiner can normally be reached on Monday-Thursday and Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Arlen Soderquist/  
Primary Examiner, Art Unit 1797